REMARKS/ARGUMENTS

These remarks are submitted in response to the non-Final Office Action dated January 3, 2007 (Office Action). As this response is timely filed within the 3-month shortened statutory period, no fee is believed due. However, the Office is expressly authorized to charge any deficiencies or credit any overpayments to Deposit Account No. 50-0951.

Claims 1-3, 5, 6, 11-13, and 16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,160,995 to Kiswani, *et al.* (hereinafter Kiswani), in view of U.S. Patent No. 6,697,474 B1 to Hanson, *et al.* (hereinafter Hanson) and in view of U.S. Patent Application Publication No. 2003/0099334 A1 to Contractor (hereinafter Contractor) and in further view of U.S. Patent No. 6,487,533 B2 to Hyde-Thomson, *et al.* (hereinafter Thomson).

Amendments to the Claims

Applicants have amended independent Claims 1, 11, and 16 to emphasize certain aspects of the invention. In particular, Claims 1, 11, and 16 have been amended to include the additional limitation that a callee can be available via one or more instant messaging devices. Furthermore, for each instant messaging device, the text message can be translated to a preferred language specified by a user profile that corresponds to each instant messaging device. Claims 3, 6 and 12 have also been amended to maintain consistency among the claims. The amendments, as discussed herein, are fully supported throughout the Specification. (See, e.g., FIG. 1A and Specification, paragraph [0021]-[0022], at pages 7 and 8.) No new matter has been introduced by the amendments.

Aspects of Applicants' Claimed Invention

It may be helpful at this juncture to reiterate certain aspects of Applicants' claimed invention. One embodiment of the invention, typified by Claim 1, as amended, is a method to enable instant collaboration via the use of pervasive messaging. The method can include receiving a call from a caller to a callee and transferring the call to a voicemail system when the callee is unavailable.

The method further can include determining whether the callee is available via one or more instant messaging devices and querying the caller to determine whether the caller wishes to leave a voice message or an instant message. In the event that the caller elects the option of leaving a text message, according to the method, a voice message from the caller to the callee can be recorded. A text message can then be generated by transcribing the voice message so that the text message can be conveyed to the callee.

The method can further include determining whether the language of the text message matches that of a preferred language in the instant messaging profile corresponding to an instant messaging device. In the event that the language does not match, the text message to be conveyed to the instant messaging device can be translated into the preferred language before being delivered to the instant messaging device. (See, e.g., Specification, paragraph [0019], at pages 6-7; paragraph [0021] at page 7; and paragraphs [0022] and [0023] at pages 7-8.)

The Claims Define Over the Cited Art

As already noted, independent Claims 1, 11, and 16 were each rejected as being unpatentable over Kiswani in view of Hanson and Contractor and in further view of Thomson. Kiswani discloses a method for "uniform call termination treatment" in a global telecommunication network that includes wireless subscriber units. (See, e.g., Col. 1, lines 37-48 and Col. 2, lines 25-29; see also Abstract, lines 1-4.) Hanson discloses a system for establishing a telephone call between a calling party and a called party,

wherein the system identifies the called party and determines whether the called party is "currently connected to a data network." (See, e.g., Col. 1, line 66 – Col. 2, line 26; see also Abstract, lines 1-9.) Contractor discloses a system for delivering voice mail messages directly to an email or other notification system for the callee after converting the message to a proper file format. (See, e.g., Paragraph [0031], page 4). Thomson discloses a system and method for automatically selecting a text-to-speech engine for converting a text message into computer generated speech played to a voice messaging system subscriber. Applicants respectfully submit that Kiswani, Hanson, Contractor, and Thomson, alone and in combination, fail to disclose or suggest every feature recited in independent Claims 1, 11, and 16, as amended.

First, the Office Action states on Page 3 that Kiswani discloses the step of prompting a caller to choose between delivery of a voice message or an instant message. Applicants respectfully disagree. The portion of Kiswani cited in the Office Action discloses:

> If the subscriber's account has both network voicemail and paging services, then the MOC 330 answers the call with voice prompts in a language selected by the subscriber for the caller to either leave a voice, numeric, or text message, via step 516.

Applicants respectfully submit that the reference cited in the Office Action is insufficient to support this rejection. Applicants submit that Kiswani does not teach or suggest prompting a caller to choose between a voice message and an instant message, as recited in each of the amended claims. The cited portion of Hanson instead discloses prompting a user to select one of several types of pager network messages, not instant messages. Applicants respectfully assert that at the time of filing of the present application, it would have been well-known to one of skill in the art that instant messaging and messaging using pager-based services are two completely different forms of messaging, functionally and technically, and are not equivalent or interchangeable.

Pager-based services are generally known to operate using only a single frequency radio-based network in which only one-way transmission is typically used to contact a pager. Although a message can be sent over a pager network "instantly," the pager network does not create a messaging session in which two users can communicate in real-time. Instead, such messages are a one-time event in which messages are simply transmitted and accepted by the target pager if it is in range of the transmission. In contrast, using instant messaging requires a connection over a computer network, along with any other wireless or wireline networks needed to connect devices running instant messaging clients by creating a chat session. Therefore, instant messaging allows a first user to contact a second user instantly and create a sustained messaging session over a computer network that allows both users to communicate in real-time and exchange information in a two-way communication.

Therefore, Applicants submit that Kiswani does not teach or suggest prompting a caller to choose between a voice message and an instant message, as recited in each of the amended claims. Nowhere does Kiswani disclose or suggest the use of instant messaging services. Furthermore, Applicants submit that such a step is not disclosed or suggested in any other reference of record.

Second, even if such a step is disclosed in Kiswani or any other reference of record, Applicant respectfully submits, such disclosed step is nonetheless moot in view of the current amendments to the claims. In the Office Action, it is asserted on page 4 that Kiswani fails to disclose or suggest the step of determining a preferred language of the callee and translating a received message into the preferred language. The Office Action asserts that such a feature is found in Thomson. However, Applicants respectfully submit that Thomson fails to disclose or suggest the steps included in as amended claims 1, 11, and 16. In particular, Thomson fails to disclose or suggest the steps of determining a preferred language for an instant messaging device and translating a message from a caller

into a preferred language when the preferred language is different from that of the transcribed text message, as recited in amended claims 1, 11, and 16.

In Thomson, the portion cited in the Office Action discloses that translation of a received message occurs once the system determines the appropriate text translator from a language identifier and an acceptable likelihood value. However, translation occurs according to a subscriber's stored messages, not according to a profile corresponding to an instant messaging device. In contrast, the claimed invention determines a language required for translation according to each instant messaging device which will receive the message, without regard to any messages already received by the callee. Therefore, the claimed invention can translate the message into a multiple languages, depending on the profile the callee has set up for each instant messaging device.

Additionally, Kiswani, Hanson, and Contractor fail to disclose or suggest such a feature. Although Kiswani provides for the voicemail system to provide prompts in a preferred language of the callee (see Col. 4, ln. 48-53), nowhere does Kiswani disclose that the selection of this preferred prompt language affects how a message is stored or delivered to the callee. Hanson discloses various methods for receiving messages from a telephony network as an instant message, but nowhere does Hanson disclose translation of such messages into a language of the callee. Contractor discloses the converting the message being stored from one file format to another (see Page 4, paragraph [0031]), but does not disclose or suggest the conversion of a message from a language of the caller to a language specified by a profile corresponding to an instant messaging device.
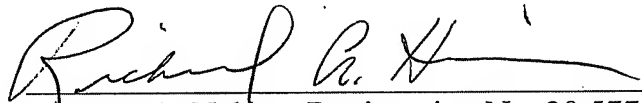
Accordingly, Kiswani, Hanson, Contractor, and Thomson, alone and in combination, fail to disclose or suggest every feature recited in independent Claims 1, 11, and 16, as amended. Applicants respectfully submit, therefore, that the amended claims define over the prior art. Applicants further respectfully submit that whereas remaining claims each depend from one of the amended independent claims, these claims likewise define over the prior art.

<u>CONCLUSION</u>

Applicants believe that this application is now in full condition for allowance, which action is respectfully requested. Applicants request that the Examiner call the undersigned if clarification is needed on any matter within this Amendment, or if the Examiner believes a telephone interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,

Date: **April 2, 2007**

Gregory A. Nelson, Registration No. 30,577
Richard A. Hinson, Registration No. 47,652
Eduardo Quinones, Registration No. 58,575
AKERMAN SENTERFITT
Customer No. 40987
Post Office Box 3188
West Palm Beach, FL 33402-3188
Telephone: (561) 653-5000